

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of Southern California Edison Company (U338E) for Approval of Agreements to Sell Its Interests in Four Corners Generation Station

Application 10-11-010
(Filed November 15, 2010)

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-03-034**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 12-03-034
Claimed (\$): 55,633	Awarded (\$): 55,708
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Hallie Yacknin

PART I: PROCEDURAL ISSUES**A. Brief Description of Decision:**

In D.12-03-034 the Commission generally approved the agreement by which Southern California Edison Company (SCE) proposed to sell its partial ownership interest in Four Corners Generating Station (Four Corners). The decision addressed a range of issues concerning whether the plant was necessary and useful in providing utility service to SCE customers and the environmental impacts from the proposed transaction. TURN's participation was generally limited to ratemaking issues associated with the proposed transaction.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	February 1, 2011	Correct
2. Other Specified Date for NOI:		

3. Date NOI Filed:	February 28, 2011	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Application (A.) 10-11-015	Correct
6. Date of ALJ ruling:	June 3, 2011	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	Petition (P.) 10-08-016	Correct
10. Date of ALJ ruling:	November 22, 2010	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-03-034	Yes
14. Date of Issuance of Final Order or Decision:	March 20, 2012	Yes
15. File date of compensation request:	May 21, 2012	Correct
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant’s claimed contribution to the final decision:**

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. Calculation of Gain on Sale Amount: SCE’s direct testimony proposed to return to SCE’s ratepayers the net gain on the proposed sale of SCE’s interest in the Four Corners Generating Station. TURN informally raised questions regarding the details of the calculation of the net gain amount, particularly regarding some of the tax implications of SCE’s proposal. Based on these informal discussions between TURN and SCE, the two parties developed joint testimony that laid out the mutual understanding about the specific ratemaking mechanics that would best achieve the utility-stated outcome.	Exhibit 3, <i>Joint Testimony Regarding Mechanics of the Net After-Tax Return of the Gain on Proposed Sale to Ratepayers.</i>	Yes

<p>The decision references the agreed-upon process for crediting the net after-tax gain on sale, grossed up to a revenue requirement, as a credit to the generation sub-account of SCE's Base Revenue Requirement Balancing Account. While the decision does not mention the TURN/SCE agreement by name, it adopts the agreed-upon process and alludes to TURN's role in working with SCE to clarify this issue when it refers to TURN's "careful scrutiny" on this issue.</p>	<p>D.12-03-034, at 16 and Finding of Fact 9.</p>	
<p>2. Transaction costs and credits – Outside counsel: TURN's discovery and testimony focused on various aspects of the transaction costs and other amounts that adjusted the gross amount paid by Arizona Public Service (APS) to SCE for its interest in the Four Corners. SCE sought to treat its outside counsel costs as a transaction cost recoverable from the sale proceeds. TURN argued that this was inappropriate, as SCE's approved general rate case (GRC) revenue requirement includes a forecast of outside counsel costs that reflect the types of costs associated with this transaction. The Commission agreed, and removed the outside counsel expenses from the transaction costs SCE could recover from the sale proceeds.</p>	<p>Exhibit 4 <i>TURN Testimony</i>, at 3-6; TURN Opening Brief, at 13-17.</p> <p>D.12-03-034, at 20-25; Conclusion of Law 8.</p>	<p>Yes</p>
<p>3. Transaction costs and credits – Liabilities for Pension and other post-retirement benefits: TURN's testimony raised concerns regarding the proposed true-up of pension and other post-employment benefits (OPEB) at the time of closing, particularly given SCE's financial indifference to the calculations provided by APS, and the risk created by relying on a forecast of market performance made during a period of unusually low market value and performance. The Commission agreed with TURN that the point about SCE's financial indifference to the accuracy of its forecast was well-taken but did not find it inappropriate to rely on the APS forecast so long as used the same accounting principles, policies and methodology that formed the basis for SCE's previously approved costs. To remedy the problem created by SCE's position of indifference, the Commission adopted an alternative to TURN's proposal, requiring SCE to submit a Tier 3 Advice Letter after the final closing that confirms the utility's independent verification that the</p>	<p>Exhibit 4 <i>TURN Testimony</i>, at 6-8; TURN Opening Brief, at 7-12.</p> <p>D.12-03-034, at 17-20; Conclusion of Law 7.</p>	<p>Yes</p>

<p>costs were calculated appropriately. While not specifically the outcome TURN had sought, the decision's adopted outcome reflects TURN's substantial contribution in raising and addressing the issues regarding SCE's reliance on APS-calculated amounts.</p>		
<p>4. Transaction costs and credits – Termination of transmission rights: TURN called for inclusion of the proceeds from termination of transmission rights as part of the net gain from this transaction that should be addressed in the decision. In particular, TURN focused on the \$40 million payment SCE would receive from APS under the Transmission Service Termination Agreement (TSTA) for the termination of the Edison-Arizona Transmission Agreement (EATA). TURN urged that the proceeds from that agreement be treated in a manner consistent with ensuring that SCE's ratepayers realize the greatest overall value for SCE's interest in Four Corners, the goal set forth in SCE's testimony. To the extent the Commission agreed that this element of the TSTA is subject to Federal Energy Regulatory Commission (FERC) jurisdiction, TURN urged the Commission to direct SCE to include such a proposal in its FERC application.</p> <p>In SCE's reply brief, the utility indicated for the first time that it intends to structure its FERC proposal to treat the TSTA proceeds as a reduction to transmission Operation and Maintenance (O&M) expense, an outcome generally consistent with TURN's position on this issue. The Proposed Decision (PD) relied on that SCE statement in stating that the value of the Sale Agreement is reasonable. TURN's comments on the PD asked that SCE be required to confirm that this is indeed the proposal it submitted or will submit to FERC. The final decision clarified that the implication in the PD that a finding that the Sale Agreement is reasonable on the basis of SCE's proposed FERC proposal was incorrect, and the Commission did not intend predetermine the details of SCE's intended FERC proposal. While the final decision did not address the merits of TURN's position, SCE's late-announced position was generally consistent with the position TURN had put forward. Furthermore, the Commission has</p>	<p>Exhibit 4 <i>TURN Testimony</i>, at 8-10; TURN Opening Brief, at 3-7.</p> <p>Proposed Decision, at 16.</p> <p>TURN Comments on PD (3/7/12), at 1-3.</p> <p>D.12-03-034, at 16-17, 29.</p>	<p>Yes</p>

recognized that an intervenor may demonstrate a substantial contribution based on the PD's treatment of an issue, even though the final decision adopts a different treatment.		
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	No	Yes
c. If so, provide name of other parties: Sierra Club and Environmental Defense were both active parties, but focused primarily on issues related to the environmental review performed pursuant to California Environmental Quality Act.		Verified
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: TURN played a more prominent role in this proceeding than did DRA, sponsoring testimony on the ratemaking-related issues and participating actively in the evidentiary hearing on those issues. In its reply brief DRA explicitly endorsed a number of the positions TURN had taken to date (as laid out in TURN's opening brief). Thus for the most part there was no duplication of effort among the parties, and to the extent any such duplication occurred, the Commission should find that it represented DRA supplementing, complementing or contributing to TURN's participation on the issues TURN addressed.		Verified: We find that TURN did not duplicate the effort of DRA or any other parties.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
TURN's request for intervenor compensation seeks an award of approximately \$55,000 as the reasonable cost of our participation in this proceeding. The Commission should have little trouble concluding that it is reasonable in light of the importance of the issues TURN addressed, and the amount of direct ratepayer benefits achieved through TURN's participation. The record evidence establishes that TURN's participation produced a ratepayer benefit of \$652,000 with the removal of the outside counsel costs from the transaction	Verified: The CPUC agrees that the cost of TURN's participation was reasonable in light of the ratepayer benefit realized through TURN's

<p>costs SCE would recover from the sale proceeds. In comments on the PD, SCE provided an updated forecast of \$357,000 as the outside counsel costs it would remove from the transaction costs recoverable from sale proceeds. Whether the Commission relied on the \$652,000 figure supported by record evidence or SCE's assertion in its post-PD comments, TURN's requested costs are less than one-sixth and possibly less than one-tenth of the direct savings. Thus the cost of TURN's participation bears a reasonable relationship to the direct benefits achieved through that participation.</p> <p>TURN focused on ratemaking issues that likely would have received little attention but for our participation in the proceeding. In particular, TURN's review of the transaction costs and proposals to ensure that the transaction achieved the maximum amount of financial benefit for ratepayers helped to ensure the Commission's review was as comprehensive as a transaction of this scale warrants. TURN raised important issues regarding the treatment of pension costs and transmission agreement termination payments that involved substantial sums. While the Commission did not adopt TURN's recommended outcome on each issue TURN raised, the more thorough review that TURN's participation helped ensure provided a ratepayer benefit (albeit a more inchoate benefit) that would warrant an award of compensation in the amount requested even if TURN could point to no direct benefits.</p>	<p>efforts.</p>						
<p>b. Reasonableness of Hours Claimed.</p> <p>This Request for Compensation includes approximately 125 total hours for TURN's attorneys and consultant time, or the equivalent of less than one month of full-time work by a single person. TURN submits that this is reasonable and consistent with the effort made early in the process to review the net after-tax gain on sale (which led to the development of a joint exhibit with SCE), followed by the more resource-intensive work regarding discovery, testimony preparation, preparation and participation for evidentiary hearing and briefing process for the transaction cost issues. Ms. Goodson was initially the lead TURN representative for this proceeding, with the case transferred to Mr. Finkelstein when Ms. Goodson went on parental leave in early 2011. Other than a few instances of the two attorneys consulting regarding strategy and such, there was almost no overlap between them in the proceeding.</p> <p>TURN's request also includes 4.5 hours devoted to the preparation of this request for compensation. This is a reasonable figure consistent with the scale of the proceeding and TURN's level of involvement therein.</p>	<p>TURN's hours are reasonable and are approved without reductions.</p>						
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated its daily time entries by activity codes to better reflect the nature of the work reflected in each entry. TURN has used the following activity codes:</p> <table border="0" data-bbox="230 1690 1250 1827"> <tr> <td style="vertical-align: top;">Code</td><td>Stands for:</td></tr> <tr> <td></td><td>General Participation -- work that would not vary with the number of issues that TURN addresses, for the most part, including initial</td></tr> <tr> <td>GP</td><td>review of utility application and testimony and preparation of</td></tr> </table>	Code	Stands for:		General Participation -- work that would not vary with the number of issues that TURN addresses, for the most part, including initial	GP	review of utility application and testimony and preparation of	<p>TURN has properly allocated its time by major issue as required by Rule 17.4.¹</p>
Code	Stands for:						
	General Participation -- work that would not vary with the number of issues that TURN addresses, for the most part, including initial						
GP	review of utility application and testimony and preparation of						

¹ See D.98-04-059 and D.85-08-012.

<p>Coord</p> <p>Conf'y</p> <p>Tax</p> <p>Tx Cost</p>	<p>TURN's protest based upon that initial review, and initial review of the PD when issued.</p> <p>Coordination with other parties – In this proceeding, this activity code covers activities working with other active intervenors on issues TURN and the intervenor both addressed (typically DRA), or on procedural matters where TURN's interest was less with the substantive issue and more with ensuring the proceeding went forward as smoothly as possible (typically Sierra Club). Work devoted to dealing with several issues regarding SCE claims that certain information was subject to confidential treatment, including the unusual circumstance of SCE claiming confidentiality on behalf of non-SCE material (the material associated with the pension and OPEB forecasts).</p> <p>The work leading up to and including the development of the Joint Exhibit with SCE describing the calculation and ratemaking treatment of the net after-tax benefit from the sale.</p> <p>Transaction costs – The issues associated with offsets to the net sale price, including outside counsel costs, pension and OPEB, and the termination of transmission rights.</p>	
<p>Based on the number of hours recorded and included in the attached timesheets, the allocation by activity code is approximately:</p> <ul style="list-style-type: none"> • 12% General Participation • 8% Tax • 68% Transaction Costs (50% Outside Counsel, 25% Pension and OPEB, 25% Transmission Rights Termination) • 8% Confidentiality issues • 4% Coordination with other parties <p>If the Commission believes that a different approach to issue-specific allocation is warranted here, TURN requests the opportunity to supplement this section of the request.</p>		

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein	2011	95.0	\$470	D.12-03-024, at 13	\$44,650	95.0	\$470	\$44,650
Robert Finkelstein	2012	5.25	\$470	See Comment 2	\$2,468	5.25	\$480	\$2,520
Hayley Goodson	2010	3.75	\$295	D.10-12-015, at 16.	\$1,106	3.75	\$295	\$1,106
Hayley Goodson	2011	16.0	\$310	5% step increase. See note below	\$4,960	16.0	\$310	\$4,960
William Marcus, JBS	2011	4.0	\$250	Hourly rate approved	\$1,000	4.0	\$250	\$1,000

Energy				for 2008 work.				
Subtotal:					\$54,184	Subtotal:		\$54,236
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Subtotal:						Subtotal:		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein	2012	4.5	\$235	Half of approved hourly rate for 2012 (See Comment 2)	\$1,057	4.5	\$240	\$1,080
Hayley Goodson	2011	0.5	\$147.5	Half of approved hourly rate for 2011	\$74	0.5	\$147.5	\$74
Subtotal:					\$1,131	Subtotal:		\$1,154
COSTS								
#	Item	Detail	Amount		Amount			
	Computerized research	Charge for access to computerized database for research associated with TURN testimony and brief	\$318				\$318	
Subtotal:					\$318	Subtotal:		\$318
TOTAL REQUEST \$:					\$55,633	TOTAL AWARD \$:		\$55,708
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>								
Attorney				Date Admitted to CA BAR		Member Number		
Robert Finkelstein				June 13, 1990		146391		
Hayley Goodson				December 5, 2003		228535		

C. Comments on Part III:

Comment #	Description/Comment
1	<p><u>Hayley Goodson's 2011 Hourly Rate:</u></p> <p>In Resolution (Res.) ALJ-267, the Commission did not adopt any Cost of Living Adjustment for 2011. However, it explicitly continued the previously adopted policy of “step increases” for 2008 and beyond. Res. ALJ-247, at 6, Finding #2. In D.08-04-010, the Commission had provided for up to two annual 5% “step increases” in hourly rates within each experience level for all intervenor representatives, and specifically explained that an attorney would be eligible for additional step increases upon reaching the next higher experience level. D.08-04-010, at 2, 11-12.</p> <p>TURN seeks an hourly rate of \$310 for Ms. Goodson's work in 2011. (A request for compensation filed April 26, 2012 in A.09-09-021 for TURN's judicial review-related work associated with that proceeding includes the same request.) This figure represents the hourly rate previously adopted for her work in 2010 (in D.10-12-015) escalated by a 5% step increase (rounded to the nearest \$5 increment). Ms. Goodson is a 2003 law school graduate. In 2008, TURN sought and was awarded an hourly rate of \$280, the low end of the range set for attorneys with 5-7 years of experience. D.08-08-027, at 5 (adopting the requested rate), and D.08-04-010, at 5 (setting the ranges for 2008). In D.10-12-015, the Commission awarded a 5% step increase to \$295 for Ms. Goodson's work in 2010. TURN seeks here the second step increase for Ms. Goodson upon reaching the 5-7 year experience level.</p> <p>TURN's showing in support of this requested increase is based on and consistent with the showing TURN made in Rulemaking10-02-005 in support of the requested increase for its attorney's hourly rate. The Commission approved the requested increase in D.10-12-015 (at 16).</p>

D. CPUC Disallowances& Adjustments:

#	Reason
1	<p>TURN requests an hourly rate of \$310 for Hayley Goodson for work performed in 2011. In 2010, the Commission awarded Goodson a 5% step increase to \$295 for Ms. Goodson's work in 2010. In D.08-04-010, the Commission provided for up to two annual 5% “step increases” in hourly rates within each experience level for all intervenor representatives, and specifically explained that an attorney would be eligible for additional step increases upon reaching the next higher experience level. We find TURN's requested rate of \$310 for 2011 to be reasonable and adopt it here.</p>

2	We increase the rate for work performed by Mr. Finkelstein in 2012 to reflect the 2.2% Cost of Living Adjustment approved by the Commission in Res. ALJ-281.
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PART IV: OPPOSITIONS AND COMMENTS**A. Opposition: Did any party oppose the claim (Y/N)?**

No

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6)) (Y/N)?

Yes

FINDINGS OF FACT

1. The Utility Reform Network made a substantial contribution to Decision (D.) 12-03-034.
2. The requested hourly rates for The Utility Reform Network's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$55,708.

CONCLUSION OF LAW

1. The Claim satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$55,708.
2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay The Utility Reform Network (TURN) the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 4, 2012, the 75th day after the filing of TURN's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D1203034	
Proceeding(s):	A1011010	
Author:	ALJ Hallie Yacknin	
Payer(s):	Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network (TURN)	5/21/2012	\$55,633	\$55,708	No	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Finkelstein	Attorney	TURN	\$470	2011	\$470
Robert	Finkelstein	Attorney	TURN	\$470	2012	\$480
Hayley	Goodson	Attorney	TURN	\$295	2010	\$295
Hayley	Goodson	Attorney	TURN	\$310	2011	\$310
William	Marcus	Expert	TURN	\$250	2011	\$250

(END OF APPENDIX)